

**AMENDMENT OFFERED BY MR. TOM DAVIS OF
VIRGINIA
TO THE AMENDMENT IN THE NATURE OF A
SUBSTITUTE TO H.R. 1542
(performance metrics)**

Page 12, after line 12, insert the following new subsection (and redesignate the succeeding subsection accordingly):

1 “(c) PERFORMANCE METRICS REQUIRED.—Not later
2 than 180 days after the date of enactment of the Internet
3 Freedom and Broadband Deployment Act of 2001, the
4 Commission shall establish, after notice and opportunity
5 for public comment, rules to require incumbent local ex-
6 change carriers to report information regarding, and com-
7 ply with standards concerning, their performance in pro-
8 viding equal and nondiscriminatory interconnection, col-
9 location, and exchange access to competing providers of
10 high speed data service, Internet backbone service, and
11 Internet access service under subsection (b), as well as
12 equal and nondiscriminatory access to unbundled network
13 elements to telecommunications carriers under section
14 251(j)(1)(A). Such rules shall provide that State laws or
15 rules shall apply in lieu of the Commission’s rules under
16 this section in any State in which the State commission



1 has in place mechanisms to enforce reporting of and com-
2 pliance with performance standards that are consistent
3 with the requirements of this subsection and the penalties
4 provided in this Act. If the Commission determines that
5 an incumbent local exchange carrier does not report infor-
6 mation regarding, or does not comply or has ceased to
7 comply with, the performance standards established under
8 this section, such carrier shall be subject to forfeiture pen-
9 alties under section 503(b)(2) of this Act.



**AMENDMENT OFFERED BY MR. TOM DAVIS OF
VIRGINIA
TO THE AMENDMENT IN THE NATURE OF A
SUBSTITUTE TO H.R. 1542
(enforcement)**

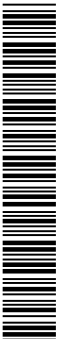
Page 14, beginning on line 12, strike section 7 and
insert the following:

1 SEC. 7. ENFORCEMENT.

2 Section 503(b)(2) of the Communications Act of
3 1934 (47 U.S.C. 503(b)(2)) is amended by adding at the
4 end the following new subparagraphs:

5 “(E) If the violator is an incumbent local exchange
6 carrier and the violation consists of a violation of section
7 232 or 233 of this Act, the amount of any forfeiture pen-
8 alty determined under this subsection shall not exceed
9 \$1,000,000 for each violation or each day of a continuing
10 violation, except that the amount assessed for any con-
11 tinuing violation shall not exceed \$10,000,000 for any sin-
12 gle act or failure to act described in paragraph (1)(B) of
13 this subsection.

14 “(F) In addition to any forfeiture penalty assessed
15 under subparagraph (B) or (E), if the violator is a Bell
16 operating company and the violation consists of a violation
17 of section 232, 233, or 271(k) of this Act, the amount



1 of any forfeiture penalty determined under this section
2 shall be, for any single act or failure to act described in
3 paragraph (1)(B)—

4 “(i) for the first violation, a forfeiture penalty
5 of not less than \$10,000,000;

6 “(ii) for the second violation, a forfeiture pen-
7 alty of not less than \$25,000,000; and

8 “(iii) for a third and any subsequent violation,
9 the suspension of the authority provided under this
10 Act for such Bell operating company and any affil-
11 iate of such company to market interLATA services,
12 high speed data services, Internet backbone services,
13 and Internet access services for a minimum of 180
14 days.”.

